

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NIASPAN ANTITRUST  
LITIGATION

MDL No. 2460

Master File No. 2:13-md-02460

This Document Relates To:

Direct Purchaser Actions

**PLAINTIFFS' MOTION TO EXCLUDE CERTAIN TESTIMONY OF  
DEFENDANTS' EXPERT JAMES SEBENIUS**

Direct Purchaser Class Plaintiffs and Retailer Plaintiffs (collectively, "Plaintiffs") respectfully move the Court, pursuant Fed. R. Evid. 703 and 403, for an order excluding certain opinions of Defendants' expert James Sebenius.

In support of their motion, Plaintiffs incorporate and rely upon the accompanying memorandum in support, the accompanying Declaration of Caitlin G. Coslett and exhibits thereto, all other briefing and materials submitted in connection with this motion, and any argument made in connection with this motion.

Dated: January 7, 2022

Respectfully submitted,

/s/ David F. Sorensen

David F. Sorensen

Caitlin G. Coslett

BERGER MONTAGUE PC

1818 Market Street, Suite 3600

Philadelphia, PA 19103

Tel.: (215) 875-3000

dsorensen@bm.net

ccoslett@bm.net

Thomas M. Sobol  
Jessica MacAuley  
Hannah Schwarzschild  
HAGENS BERMAN SOBOL SHAPIRO  
LLP  
55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142  
Tel.: (617) 482-3700  
tom@hbsslaw.com  
jessicam@hbsslaw.com  
hannahs@hbsslaw.com

Bruce E. Gerstein  
Joseph Oppen  
Dan Litvin  
GARWIN GERSTEIN & FISHER LLP  
88 Pine Street, 10th Floor  
New York, NY 10005  
Tel.: (212) 398-0055  
bgerstein@garwingerstein.com  
jopper@garwingerstein.com  
dlitvin@garwingerstein.com

***Co-Lead Counsel for Direct Purchaser Class Plaintiffs***

Barry L. Refsin  
Alexander J. Egerváry  
HANGLEY ARONCHICK SEGAL PUDLIN  
& SCHILLER  
One Logan Square, 27th Floor  
Philadelphia, PA 19103  
Tel.: (215) 568-6200  
brefsin@hangley.com  
aegervary@hangley.com

Monica L. Kiley  
Eric L. Bloom  
HANGLEY ARONCHICK SEGAL PUDLIN  
& SCHILLER  
2805 Old Post Road, Suite 100  
Harrisburg, PA 17110  
Tel.: (717) 364-1030  
mkiley@hangley.com  
ebloom@hangley.com

***Counsel for Plaintiffs CVS Pharmacy, Inc.,  
Rite Aid Corp., Rite Aid Hdqtrs. Corp., JCG  
(PJC) USA, LLC, Maxi Drug, Inc. d/b/a/  
Brooks Pharmacy and Eckerd Corporation***

Scott E. Perwin  
Lauren C. Ravkind  
Anna T. Neill  
KENNY NACHWALTER, P.A.  
1100 Four Seasons Tower  
1441 Brickell Avenue  
Miami, FL 33131  
Tel.: (305) 373-1000  
sep@kennynachwalter.com  
lravkind@kennynachwalter.com  
aneill@kennynachwalter.com

***Counsel for Plaintiffs Walgreen Co. et al.***

Bernard D. Marcus  
Moirá Cain-Mannix  
Brian C. Hill  
Erin Gibson Allen  
Joshua A. Kobrin  
MARCUS & SHAPIRA LLP  
One Oxford Centre, 35th Floor  
301 Grant Street  
Pittsburgh, PA 15219  
Tel.: (412) 471-3490  
marcus@marcus-shapira.com  
cain-mannix@marcus-shapira.com  
hill@marcus-shapira.com  
allen@marcus-shapira.com  
kobrin@marcus-shapira.com

***Counsel for Plaintiff Giant Eagle, Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2022, I caused a copy of the foregoing to be served on counsel of record for Defendants by email.

Respectfully submitted,

/s/ David F. Sorensen  
David F. Sorensen